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STATE OF ALABAMA  
OFFICE OF THE ATTORNEY GENERAL

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Municipalities – Public Purpose –  
Funds – Entertainment – Economic  
Development – Randolph County

The City of Roanoke may donate  
funds to the Rotary Club of  
Roanoke, a nonprofit organization,  
for the purpose of assisting with  
“The Theatre Project.”

Dear Mr. Tinney:

This opinion of the Attorney General is issued in response to your  
request on behalf of the City of Roanoke.

QUESTION

Can the City of Roanoke donate money to  
the Rotary Club, a nonprofit organization, for the  
purpose of assisting with “The Theatre Project”?

FACTS AND ANALYSIS

You state that the Roanoke City Council has found that the “Theatre Project” proposed by the Rotary Club of Roanoke (“Rotary Club”) will encourage business development in downtown Roanoke, attract new industries to the area, and demonstrate local culture. The Theatre Project, as you indicate, is a renovation of the downtown “Martin Theatre” into an amphitheater to which the city council seeks to make a donation. You further indicate that the proposed Theatre Project is vital to the city’s

“downtown revitalization plan” and that the donated funds will promote the general safety, morals, and prosperity of Roanoke’s community.

Section 11-47-16 of the Code of Alabama provides that a municipality may “operate, maintain, or contract with others to operate and maintain public *cultural facilities* consisting of . . . art galleries, music halls, and *related facilities*, all to the end of making cultural facilities available to the public.” ALA. CODE § 11-47-16 (2008) (emphasis added). You indicate that the amphitheater will host, among other things, musical, theatrical, informational, and educational shows and programs. Further, when the Theatre is not being used for a program, the facility will be open and available for public use. In the light of the amphitheater’s uses, the city could determine that the Theatre is reasonably related to, and identifiable as, a cultural facility as that term is used in section 11-47-16 of the Code.

This Office has stated that the City of Pinson was authorized under section 11-47-16 to enter into a contract with a community center for its renovation in *exchange* for the center making cultural facilities available to the public. Opinion to Honorable E. Shane Black, Attorney, City of Pinson, dated January 22, 2009, A.G. No. 2009-033; *see also*, opinion to Honorable Larry Bennich, Chairman, Morgan County Commission, dated May 8, 1998, A.G. No. 98-00142 (stating that a county was authorized under section 11-47-16 to enter into an agreement with a community center in exchange for the center making cultural facilities available to the public).

In like manner, section 11-47-16 authorizes the City Council of Roanoke to contribute to the renovation of the amphitheater if the city determines that the amphitheatre is a cultural or related facility and also open to public use. Again, section 11-47-16 requires the City of Roanoke to memorialize any agreement in writing in the form of a contract with the Rotary Club.

In your request, you also mention that the Theatre Project is vital to the city’s downtown revitalization plan and would attract new business. Section 94.01 of the Recompiled Constitution of Alabama, as amended, authorizes a municipality to grant funds to any person or organization for the purpose of promoting economic development within the municipality. ALA. CONST. art. IV, § 94.01 (amend. 772). Section 94.01 requires two conditions be met prior to the City of Roanoke being able to grant public funds. Subsections 94.01(c)(1) and 94.01(c)(2) require that the proposed

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action serve a valid public purpose and that notice and a meeting be held regarding the proposed action.

Whether a public purpose will be served by the city donating funds for the Theatre Project requires a fact-specific determination by the City of Roanoke. Opinion to Honorable Jimmy S. Calton, City Attorney, City of Eufaula, dated August 6, 2007, A.G. No. 2007-122. Hence, the City of Roanoke would also be authorized to provide funds pursuant to section 94.01 of the Recompiled Constitution of Alabama assuming the city determines a public purpose would be served by such action.

#### CONCLUSION

The City of Roanoke may donate funds to the Rotary Club of Roanoke, a nonprofit organization, for the purpose of assisting in "The Theatre Project."

I hope this opinion answers your question. If this Office can be of further assistance, please contact Monet Gaines of my staff.

Sincerely,

LUTHER STRANGE  
Attorney General  
By:

A handwritten signature in cursive script that reads "Brenda F. Smith".

BRENDA F. SMITH  
Chief, Opinions Division

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